

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS, EASTERN DIVISION

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PATRICIA M. COLBURN

Plaintiff,

v.

IBEW LOCAL 2133 (RICHARD CAPELLO),  
IBEW LOCAL 2222 (MYLES CALVERY),  
VERIZON.

Defendants.

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CIVIL ACTION NO.

04-CV-11859MLW

(Related Case: 04-CV-11784MLW)

**DEFENDANT, VERIZON COMMUNICATIONS, INC.’S<sup>1</sup>**  
**MOTION TO DISMISS OR FOR A MORE DEFINITE STATEMENT**

The Defendant, Verizon Communications, Inc. (“Verizon”) seeks the dismissal of the Plaintiff’s Complaint pursuant to Fed. R. Civ. P. 12(b)(6), Fed. R. Civ. P. 8, and Fed. R. Civ. P. 10 or, in the alternative, for an order requiring the Plaintiff to file a more definite statement pursuant to Fed. R. Civ. P. 12(e). In support of the Motion to dismiss, Verizon states that the Plaintiff’s Complaint fails to set forth a legal cause of action pursuant to Rule 12(b)(6). The Plaintiff’s Complaint, although often incoherent, constitutes a hybrid wrongful termination/breach of the duty of fair representation claim under Section 301 of the Labor Management Relations Act, 29 U.S.C. §§ 158 and 185. As such, Verizon is entitled to dismissal of this claim pursuant to 12(b)(6) because the Plaintiff has failed to file her Complaint within the applicable statute of limitations for such a claim. Alternatively, because the Complaint is vague, ambiguous, not susceptible to a responsive pleading, and otherwise does not comply with Rule 8 or Rule 10, Verizon requests that the Plaintiff be required to file a more definite statement

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<sup>1</sup> In the Plaintiff’s Complaint, she has identified the Defendant simply as “Verizon.”

pursuant to Rule 12(e) on the grounds that the Defendant cannot reasonably be required to frame a responsive pleading.

Filed herewith and incorporated herein is the Defendant's Memorandum in Support of the Motion to Dismiss or for a More Definite Statement. Also filed herewith and incorporated by reference are the Motions to Dismiss and the Memoranda in Support filed by Richard Cappiello on August 18, 2004 (Papers No. 2 and 3) and Myles Calvery on August 26, 2004 (Papers No. 6 and 7) in the related action, 04-CV-11784MLW.

Respectfully submitted,

VERIZON COMMUNICATIONS, INC.  
By its attorneys,

\_\_\_\_\_/s/ Windy L. Rosebush\_\_\_\_\_  
Timothy P. Van Dyck, BBO #548347  
Windy L. Rosebush, BBO #636962  
EDWARDS & ANGELL, LLP  
101 Federal Street  
Boston, MA 02110  
Telephone: (617) 439-4444

Date: September 7, 2004

**CERTIFICATE OF SERVICE**

I, Windy L. Rosebush, hereby certify that on September 7, 2004, I caused a copy of the foregoing document to be served upon Patricia M. Colburn, *pro se*, 100 Kenelworth Avenue, Brockton, MA 02301 via certified mail, return receipt requested and first class mail.

\_\_\_\_\_/s/ Windy L. Rosebush\_\_\_\_\_